

Calendar No. 405

106TH CONGRESS }
1st Session

SENATE

{ REPORT
106-223

**FEDERAL REPORTS ELIMINATION AND
SUNSET ACT AMENDMENTS OF 1999**

R E P O R T

OF THE

**COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE**

TO ACCOMPANY

S. 1877

TO AMEND THE FEDERAL REPORT ELIMINATION AND SUNSET
ACT OF 1995



NOVEMBER 17, 1999.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

79-010

WASHINGTON : 1999

COMMITTEE ON GOVERNMENTAL AFFAIRS

FRED THOMPSON, Tennessee, *Chairman*

WILLIAM V. ROTH, JR., Delaware	JOSEPH I. LIEBERMAN, Connecticut
TED STEVENS, Alaska	CARL LEVIN, Michigan
SUSAN M. COLLINS, Maine	DANIEL K. AKAKA, Hawaii
GEORGE VOINOVICH, Ohio	RICHARD J. DURBIN, Illinois
PETE V. DOMENICI, New Mexico	ROBERT G. TORRICELLI, New Jersey
THAD COCHRAN, Mississippi	MAX CLELAND, Georgia
ARLEN SPECTER, Pennsylvania	JOHN EDWARDS, North Carolina
JUDD GREGG, New Hampshire	

HANNAH S. SISTARE, *Staff Director and Counsel*

ROBERT J. SHEA, *Counsel*

HENRY R. WRAY, *GAO Detailee*

JOYCE A. RECHTSCHAFFEN, *Minority Staff Director and Counsel*

PETER A. LUDGIN, *Minority Professional Staff Member*

DARLA D. CASSELL, *Administrative Clerk*

Calendar No. 405

106TH CONGRESS }
1st Session }

SENATE

{ REPORT
{ 106–223

AMENDING THE FEDERAL REPORT ELIMINATION AND SUNSET ACT AMENDMENTS OF 1999

NOVEMBER 17, 1999.—Ordered to be printed

Mr. THOMPSON, from the Committee on Governmental Affairs,
submitted the following

REPORT

[To accompany S. 1877]

The Committee on Governmental Affairs, to which was referred the bill (S. 1877) to amend the Federal Report Elimination and Sunset Act of 1995, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

CONTENTS

	Page
I. Summary and Purpose	1
II. Background	2
III. Legislative History	2
IV. Section-by-Section analysis	3
V. Regulatory Impact Statement	5
VI. Congressional Budget Office Cost Estimate	5

F5012

I. SUMMARY AND PURPOSE

S. 1877, the Federal Reports Elimination and Sunset Act Amendments of 1999, preserves certain statutory requirements for reports to Congress that would otherwise cease to be effective at the end of this year under a “sunset” provision enacted by the Federal Reports Elimination and Sunset Act of 1995 (Public Law 104–66). The bill also adds clarifying language to affirm the original Congressional intent concerning the scope of the sunset provision. Finally, the bill temporarily extends the authority of the Director of the Office of Management and Budget (OMB) to consolidate certain financial management reports.

II. BACKGROUND

The Federal Reports Elimination and Sunset Act of 1995 (Public Law 104-66) (hereafter “the Sunset Act”) eliminated several hundred no-longer-needed reports to the Congress. In addition, it established a mechanism for the subsequent “sunsetting,” effective December 21, 1999, of many more laws that require reports to the Congress.

Section 3003 of the Sunset Act provided that each law “requiring the submittal to Congress (or any committee of the Congress) of any annual, semiannual, or other regular periodic report” listed in a 1993 document issued by the Clerk of the House of Representatives “shall cease to be effective” four years after the date of enactment of the Act, i.e., on December 21, 1999. The Clerk’s document referred to in the Sunset Act, entitled “Reports to be Made to Congress” (House Document 103-7), was issued on January 5, 1993.

The Sunset Act itself exempted from sunset certain specific reports and categories of reports. The sponsors of the Act, Senators Levin and McCain, anticipated that, over time, Congress would identify additional reports that warranted exemption from sunset. Indeed, the 4-year lead time before the sunset became effective was provided for this purpose. Thus, Senator Levin observed during Senate consideration of the legislation enacted as the Sunset Act:

* * * The legislation also includes a modified version of Senator McCain’s sunset provision which will eliminate those reports with an annual, semi-annual, or regular periodic reporting basis 4 years after the bill’s enactment, while allowing Members of Congress to reauthorize those reports it deems necessary in carrying out effective Congressional oversight.”¹

The Federal Reports Elimination and Sunset Act Amendments of 1999 exempts from sunset a few additional reporting requirements. In the judgment of the Committee, there is a continuing need for the reports covered by these requirements.² The bill also adds clarifying language to the Sunset Act in order to explicitly affirm the original intent that the sunset provision applies only to reports that are required at regular time intervals. The bill also temporarily extends for 6 months OMB’s authority to consolidate certain financial management reports into single agency “accountability reports.” This temporary extension will allow the accountability reports to continue while the Committee and OMB develop legislation to provide permanent and enhanced statutory authority for the consolidation of management reports.

III. LEGISLATIVE HISTORY

S. 1877 is an original bill introduced by Chairman Thompson. The Committee on Governmental Affairs considered the bill on November 3, 1999, and ordered the bill reported by voice vote.

¹ Congressional Record for July 17, 1995, at S10168.

² Other committees are reviewing reporting requirements within their jurisdictions that are subject to sunset in order to determine whether they should propose legislation to retain any of them.

IV. SECTION-BY-SECTION ANALYSIS

Section 1 provides that the bill may be cited as the “Federal Reports Elimination and Sunset Act Amendments of 1999.”

Section 2 clarifies the scope of the sunset provision. Section 3003(a) of the Sunset Act provided for the sunset of requirements listed in the 1993 Clerk’s document for “annual, semiannual, or other regular periodic” reports. The Clerk’s document was designed to list all statutory requirements then in effect for agency reports to Congress, including one-time reports, regular periodic reports, and ad hoc reports triggered on some basis other than a fixed time period.

As its plain terms indicate, the sunset applies only to a portion of the reports listed by the Clerk—specifically, those required to be submitted at regular time intervals. It was not intended to reach reports required by the occurrence of events, as opposed to the passage of time. For example, it was not intended to sunset reports of proposed rescissions, reservations, and deferrals of budget authority (2 U.S.C. 683 and 684); reports of determinations to withhold agency records from the Comptroller General (31 U.S.C. 716); or reports of violations of the Federal Records Act (44 U.S.C. 2115). Likewise, the sunset was not intended to cover reports lacking a fixed time interval, such as reports required “from time to time,” or “periodically,” or “as appropriate.” Out of an abundance of caution that some confusion may arise over the scope of the sunset, section 2 of the bill amends section 3003(a) of the Sunset Act to make explicitly clear that the sunset covers only reports required to be submitted at regular predetermined time intervals.

Concerning the scope of the sunset, the Committee also notes that section 3003(a) applies by its terms to reports listed in the 1993 Clerk’s document. It follows that the sunset affects only reporting requirements as they existed at the time of the Clerk’s list. Thus, reporting requirements that were subsequently enacted, reenacted, or modified are beyond the scope of the sunset. Sections 104(j) and 502(g) of title 23, United States Code, as amended by the Transportation Equity Act for the 21st Century (Public Law 105–178), are examples of such requirements.

Section 3 of the bill amends section 3003(d) of the Sunset Act by adding several paragraphs that contain additional exemptions of reporting requirements from sunset.

The new paragraph (33) deals generally with reports associated with the annual budget submission process set forth in chapter 11 of title 31, United States Code. Subparagraph (33)(A) exempts from the sunset requirement three specific annual reports to the Congress—under sections 1105(a), 1106(a) and (b), and 1109(a) of title 31—that are fundamental to that process. Section 1105(a), for example, is the requirement for the President to submit his proposed budget to the Congress.

Subparagraph (33)(B) exempts section 446 of Public Law 93–198, which requires the Mayor of the District of Columbia to submit the District’s annual budget to the President “for transmission by him to the Congress.” The President’s annual budget would be incomplete without this report.

Subparagraph (33)(C) exempts reports under other laws relating to the annual budget. The Committee is aware that there are other agency-specific requirements, similar to the one for the District's budget, that require submission of budget materials to the Congress. However, it would be impractical to sort through the Clerk's list to identify all such requirements. Therefore, subparagraph (33)(C) provides a categorical exemption for budget-related reports.

Paragraph (34) deals with the budget enforcement process set forth in chapter 20 of title 2, United States Code, under which funding that exceeds congressionally-established limitations is subject to sequestration. The Committee intends to assure that any regular and periodic reports to the Congress that are part of that process be preserved.

Paragraph (35) exempts a report that is an integral part of the process of reapportioning seats in the House of Representatives based on the Census. The President is required by 2 U.S.C. 2a(a) to transmit to the Congress "a statement showing the whole number of persons in each State * * * as ascertained under the seventeenth and each subsequent decennial census of the population and the number of Representatives to which each State would be entitled under an apportionment of the then existing number of Representatives * * *." Under subsection (b) of this provision, each State is entitled to the number of Representatives set forth in the President's statement until the next such report or until a reapportionment is enacted. The report required by section 2a(a) of title 2 is regular and periodic, and thus subject to sunset, since it is made every 10 years. If this statement were discontinued, it is not clear that any Census-based reapportionment could occur without legislative action.

Paragraph (36) exempts an annual report to Congress by the Director of OMB on paperwork reduction and information management activities. Among other things, the report describes the extent to which agencies have (A) reduced information collection burdens; (B) improved the quality and usefulness of statistical information; (C) improved public access to government information; and (D) improved program performance through information resources management. The Committee considers this report to be an important oversight tool.

Paragraph (37) and (38) exempt two reports by the Administrator of the General Services concerning agency property disposition activities that the Committee likewise considers important for oversight. The first is an annual report on agency activities relating to the disposition of excess personal property. The second is a biennial report on the donation of surplus and excess property.

Paragraph (39) exempts two annual reports by the Director of the Congressional Budget Office. The first is a report to the Senate and House Budget Committees on budgetary information and budget-related legislation. The second is a report to Congress on appropriations for which there is no current authorization.

Paragraph (40) exempts monthly reports by the President on cumulative proposed rescissions, reservations, and deferrals of budget authority under the Impoundment Control Act. This is the only report under the Impoundment Control Act that would be subject to sunset.

Paragraph (41) exempts a requirement that the Archivist of the United States transmit to Congress copies of certificates of ascertainment of electors.

Section 4 of the bill extends until April 30, 2000, OMB's authority to conduct pilot projects that consolidate certain agency financial management reports into single agency "accountability reports." This authority is scheduled to expire at the end of calendar year 1999. The Committee supports the objective of consolidated reporting, but believes that the content and format for the consolidated reports can be improved. The Committee considers it particularly important that management reports address the substantial data challenges that affect most agencies. The extension through next April is a stopgap measure. The Committee intends to work with OMB to develop permanent and enhanced reports-consolidation authority next year.

V. REGULATORY IMPACT STATEMENT

Pursuant to paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact that would be incurred in carrying out the bill. The Committee finds that enactment of the bill will not have significant regulatory impact.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 5, 1999.

Hon. FRED THOMPSON,
Chairman, Committee on Governmental Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for the Federal Reports Elimination and Sunset Act Amendments of 1999.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are John R. Righter (for federal costs) and Susan Sieg (for the state and local impact).

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, *Director*).

Enclosure.

S. 1877—Federal Reports Elimination and Sunset Act Amendments of 1999

Subject to the availability of appropriated funds, CBO estimates that implementing the bill would not significantly increase annual federal reporting costs. Because the legislation would not affect direct spending or receipts, pay-as-you-go procedures would not apply. This bill contains intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA); however, CBO estimates that the costs to state and local governments would not be significant and would not exceed the threshold established in the act (\$50 million in 1996, adjusted annually for inflation). The legislation contains no private-sector mandates as defined in UMRA.

Beginning on December 21, 1999, the Federal Reports Elimination and Sunset Act of 1995 generally terminates regular periodic reporting requirements established in 1992 or before. This bill would exempt 12 specific reports from elimination, as well as any other report that relates to the budget of the federal government. In addition, the legislation would clarify that the sunset provision included in the 1995 act applies only to reports with regular time intervals and not to reports that are triggered by specific events. Finally, the legislation would extend by four months the authority granted to the Director of the Office of Management and Budget (OMB) under the Government Management Reform Act of 1994 (GMRA) to consolidate certain financial management reports.

CBO expects that agencies would continue to submit most, if not all, of the reports listed in the legislation. For instance, the bill includes the annual budget and related reports submitted by the President; reports relating to the budget enforcement and sequestration process under the Balanced Budget and Emergency Deficit Control Act; the decennial census report that provides the basis for apportioning seats in the U.S. House of Representatives; the requirement that the District of Columbia submit its budget to the Congress, which is the basis for its annual appropriation; and the Administration's annual report on implementing the Federal Paperwork Reduction Act. Consequently, CBO estimates that, subject to the availability of appropriated funds, any increase in costs from exempting the reports would not be significant.

In addition, we expect a few reports with irregular time intervals would continue under this bill and that the additional costs of continuing such reports would not be significant. Finally, based on information from OMB, CBO estimates that the amount of savings in 2000 from temporarily extending the Administration's authority under GMRA would be negligible. Any change in spending from either provision would be subject to the availability of appropriated funds.

Under current law, state executives must report Presidential election results to the National Archivist, and the Mayor of the District of Columbia must submit its budget to the President. These reporting requirements on state executives and the mayor would sunset under current law, but would be continued under this bill. Restoring these requirements would be mandates as defined in UMRA, but the costs would not be significant and would not exceed the UMRA threshold (\$50 million in 1996, adjusted annually for inflation).

The CBO staff contacts are John R. Righter (for federal costs) and Susan Sieg (for the state and local impact). This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

VII. CHANGES TO EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, and existing law in which no change is proposed is shown in roman):

Public Law 104-66**FEDERAL REPORTS ELIMINATION AND SUNSET ACT OF
1995**

* * * * *

SEC. 3003. TERMINATION OF REPORTING REQUIREMENTS**(a) TERMINATION.—**

(1) **IN GENERAL.**—Subject to the provisions of paragraph (2) of this subsection and subsection (d), each provision of law requiring the submittal to Congress (or any committee of Congress) of any annual, semiannual, or other [regular] periodic report *at predetermined and regular time intervals*, specified on the list described under subsection (c) shall cease to be effective, with respect to that requirement, 4 years after the date of the enactment of this Act.

* * * * *

(d) **SPECIFIC REPORTS EXEMPTED.**—Subsection (a)(1) shall not apply to any report required under—

* * * * *

(31) section 240A of the Foreign Assistance Act of 1961 (22 U.S.C. 2200a); [and]

(32) section 604 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1469) [.];

(33)(A) *sections 1105(a), 1106(a) and (b), and 1109(a) of title 31, United States Code;*

(B) *section 446 of the District of Columbia Self-Government and Governmental Reorganization Act (Public Law 93-198; 87 Stat. 801), and*

(C) *any other law relating to the budget of the United States Government;*

(34) *the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.);*

(35) *section 22(a) of the Act entitled “An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress”, approved June 28, 1929 (2 U.S.C. 2a(a));*

(36) *section 3514(a)(1)(B) of title 44, United States Code;*

(37) *section 202(e) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(e));*

(38) *section 203(o) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(o));*

(39) *section 202(e)(1) and (3) of the Congressional Budget Act of 1974 (2 U.S.C. 602(e)(1) and (3));*

(40) *section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 685(e)); and*

(41) *section 6 of title 3, United States Code.*

* * * * *

Public Law 103-356, as amended by Public Law 104-208**GOVERNMENT MANAGEMENT REFORM ACT OF 1994**

* * * * *

SEC. 404. SIMPLIFICATION OF MANAGEMENT REPORTING PROCESS

* * * * * *

(b) APPLICATION.—The authority provided in subsection (a) shall apply only to reports of agencies to the Office of Management and Budget or the President and of agencies or the Office of Management and Budget to the Congress required by statute to be submitted between January 1, 1995, and **December 30, 1999** *April 30, 2000*.

* * * * * *